

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN CIVIL LIBERTIES UNION, and
AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, FEDERAL BUREAU OF
INVESTIGATION, and DRUG
ENFORCEMENT ADMINISTRATION

Defendants.

C.A. No. 1:19-CV-12242-WGY

JOINT STATEMENT AND PROPOSED INITIAL SCHEDULE

Plaintiffs American Civil Liberties Union (“ACLU”) and American Civil Liberties Union of Massachusetts (“ACLUM”) (collectively, the “Plaintiffs”) and Defendants United States Department of Justice (“DOJ”), Federal Bureau of Investigation (“FBI”), and Drug Enforcement Administration (“DEA”) (collectively, the “Defendants”) hereby submit this joint statement and proposed initial schedule for the litigation.

This is a FOIA case arising from a request for records submitted by the Plaintiffs to the Defendants on January 18, 2019. *See* Complaint (D.E. 1) ¶23 & Ex. A. To date, the Defendants have not produced records responsive to the Request. The Defendants represent that searches for responsive records have been undertaken, and that they are processing responsive records for potential release.

In light of these representations, the parties have conferred regarding the proposed schedule for the initial phase of this litigation. The parties jointly suggest the following:

- March 16, 2020: DEA produces all responsive records;

- March 16, 2020: FBI begins rolling production of responsive records; and
- May 15, 2020: Parties submit status report and updated scheduling proposal, including proposed deadline for FBI to complete production of records.

In making such productions, the Defendants reserve any rights to withhold otherwise responsive records pursuant to any applicable FOIA exemptions, and the Plaintiffs reserve any rights to contest any such withholding and/or any delay in the production of records on any and all available grounds. The parties also reserve all claims and defenses in the litigation, including regarding the adequacy of any searches conducted for responsive records and/or the scope of any production of records.

The parties propose that the Defendants' obligations to answer or otherwise respond to the Complaint be temporarily stayed, pending the further scheduling proposal of the parties to be submitted on May 15, 2020.

Dated: February 5, 2020

/s/ Daniel L. McFadden

Matthew R. Segal (BBO #654489)
Daniel L. McFadden (BBO #676612)
American Civil Liberties Union
Foundation of Massachusetts, Inc.
211 Congress Street
Boston, MA 02110
(617) 482-3170
msegal@aclum.org
dmcfadden@aclum.org

David Glod, BBO# 676859
Nathaniel C. Donohue, BBO# 694274
Rich May, P.C.
176 Federal Street, 6th Floor
Boston, MA 02110
(617) 556-3800
dglod@richmaylaw.com
ndonoghue@richmaylaw.com

Brett Max Kaufman *
Nathan Freed Wessler * (BBO #680281)

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

By: /s/ Susan M. Poswistilo
Susan M. Poswistilo
Assistant U.S. Attorney
John J. Moakley Federal Courthouse
One Courthouse Way, Ste. 9200
Boston, MA 02210
(617) 748-3103
susan.poswistilo@usdoj.gov

American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
bkaufman@aclu.org
nwessler@aclu.org

*admitted *pro hac vice*

Certificate of Service

I certify that the foregoing document was served on all registered parties through the Court's CM/ECF system.

February 5, 2020

/s/ Daniel L. McFadden
Daniel L. McFadden